

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MOZLY TECH LLC, §
§
Plaintiff, § Case No:
§
vs. § § PATENT CASE
§
MASERGY COMMUNICATIONS, INC. §
§
Defendant. §
§
_____ §

COMPLAINT

Plaintiff Mozly Tech LLC (“Plaintiff” or “Mozly”) files this Complaint against Masergy Communications, Inc. (“Defendant” or “Masergy”) for infringement of United States Patent No. 7,367,044 (hereinafter “the ‘044 Patent”).

PARTIES AND JURISDICTION

1. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.

2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.

3. Plaintiff is a Texas limited liability company with its office address at 3400 Silverstone Dr., Suite 191-G, Plano, Texas 75023.

4. On information and belief, Defendant is a Delaware corporation with an office address of 2740 Dallas Pkwy, Suite 260 Plano, Texas 75093.

5. On information and belief, this Court has personal jurisdiction over Defendant

because Defendant has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

6. On information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in this District.

VENUE

7. Venue is proper in this District of Texas pursuant to 28 U.S.C. § 1400(b) because acts of infringement are occurring in this District and Defendant has a regular and established place of business in this District. For example, on information and belief, Defendant has a regular and established place of business at 2740 Dallas Pkwy, Suite 260 Plano, Texas 75093.

COUNT I
(INFRINGEMENT OF UNITED STATES PATENT NO. 7,367,044)

8. Plaintiff incorporates paragraphs 1 through 7 herein by reference.

9. This cause of action arises under the patent laws of the United States and, in particular, under 35 U.S.C. §§ 271, *et seq.*

10. Plaintiff is the owner by assignment of the '044 Patent with sole rights to enforce the '044 Patent and sue infringers.

11. A copy of the '044 Patent, titled "System and Method for Network Operation," is attached hereto as Exhibit A.

12. The '044 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

13. On information and belief, Defendant has infringed and continues to infringe one or more claims, including at least Claim 1, of the '044 patent by making, using, importing,

selling, and/or offering for sale a contact management tool, which is covered by at least Claim 1 of the ‘044 patent. Defendant has infringed and continues to infringe the ‘044 patent directly in violation of 35 U.S.C. § 271.

14. Defendant sells, offers to sell, and/or uses contact management tools including, without limitation, the Masergy Communicator app, and any similar products (“Product”), which infringe at least Claim 1 of the ‘044 Patent. The Product allows for the creation and maintenance of contact information, such as contact phone numbers, for example, for users having accounts. The users are associated with the contact information via user accounts. A user account can be associated with a new telephone so that the new telephone can dial the phone numbers for the contacts. Various of these elements are illustrated below in the public information (screen shots):



<https://play.google.com/store/apps/details?id=com.masergy.app.android&hl=en>

SEAMLESS UC ACROSS MULTIPLE DEVICES

Masergy Communicator provides end-users with a unified communications (UC) experience across all mainstream device platforms from Microsoft, Apple, and Google. Powered by our UCaaS technology, Masergy Communicator provides your business with a complete UC solution.

With Masergy Communicator, you can start a call on your desk phone and seamlessly move it to your mobile device. User preferences are stored in the cloud and synchronized with the software on your device when you log in. Masergy Communicator is a single application to access voice, video, instant messaging, and presence.

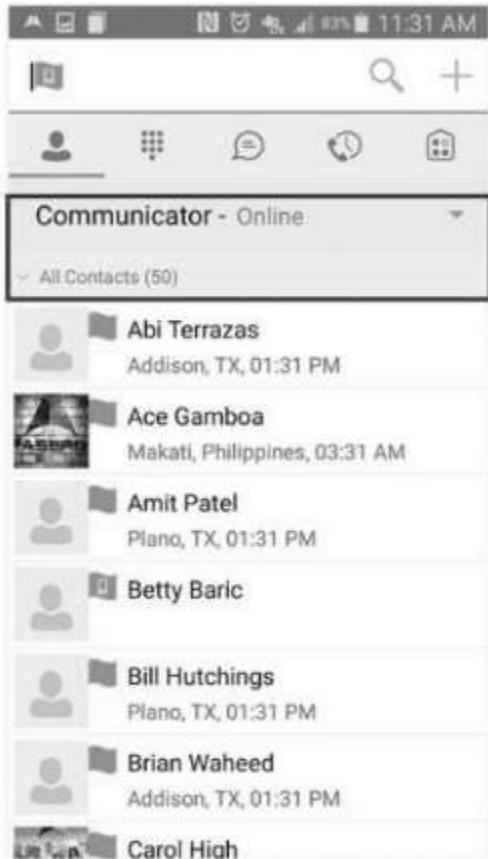
<https://www.masergy.com/cloud-communications/global-ucaas/masergy-communicator/>

REMARKABLE SERVICES



- ✓ HD Audio/Video Calling
- ✓ Instant Messaging
- ✓ Presence
- ✓ Unified Messaging
- ✓ Multi-party Conferencing
- ✓ Desktop and File Sharing
- ✓ WebRTC Connections

<https://www.masergy.com/cloud-communications/global-ucaas/masergy-communicator/>



<https://play.google.com/store/apps/details?id=com.masergy.app.android&hl=en>

What will it do for me?

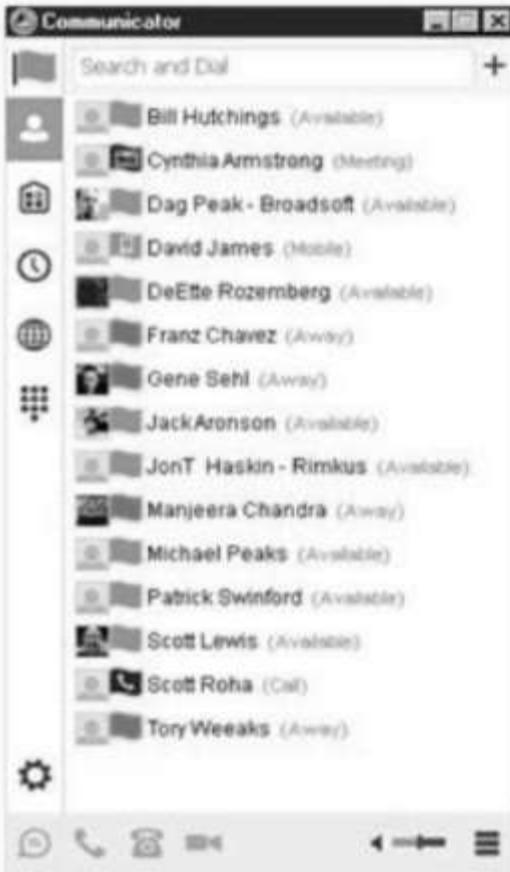
Masergy Communicator has a number of features that you will find valuable:

- One Identity - You have one identity across all services, voice, video, and Instant Messaging & Presence
- Access from any device - Access all of your communications services from any device, including your desk phone, desktop, laptop, mobile, or tablet
- Synchronized call logs, buddy lists and service settings - All communications preferences are stored in the cloud and synchronized with the software on your device when you log in
- High definition voice and video - Voice and video calls are enhanced with the highest quality voice
- Move from device to device without interrupting calls - You can start a call on your desk phone - and seamlessly move to your mobile device

How do I activate it?

The user interface may be downloaded onto your PC or Mac from Masergy's Software Download page. It may be downloaded to your iPad or Android tablet or phone using the Google Play store or iTunes.

<http://content.masergy.com/wXxDBQsy82?sg=1>



<http://content.masergy.com/wXxDBQsy82?sg=1>

How does it work?

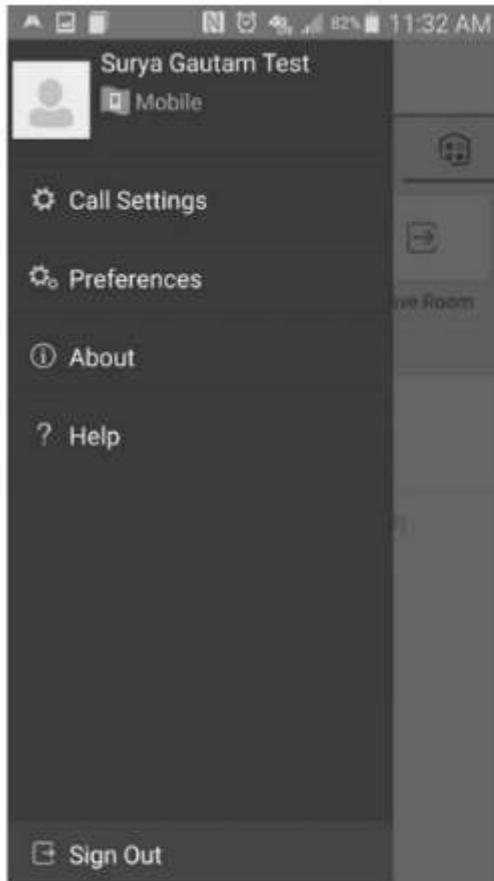
The Masergy Communicator client will allow you to make, answer, and transfer calls to any device, plus much, much more.

Making a call

Start typing the name of the person you want to reach from within your organization in the search box. If the person is outside your organization, you can simply type their telephone number and click enter. To add them as a contact, right click and select add contact.



<http://content.masergy.com/wXxDBQsy82?sg=1>



<https://play.google.com/store/apps/details?id=com.masergy.app.android&hl=en>

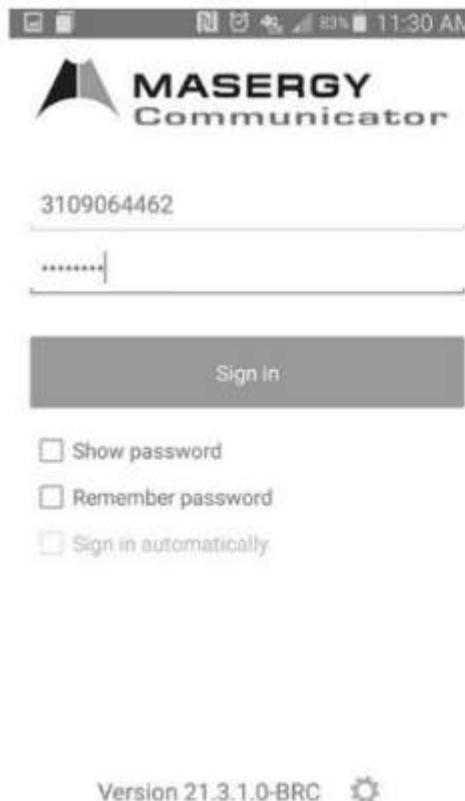
15. The network includes a number of client telephones that use contact information stored on the Product. The contact information includes telephone numbers.

16. On information and belief the network includes one or more servers (e.g., a cloud server) on which user accounts are hosted. For example, the Product stores accounts associated with users of the Product.

17. The network also provides for communication (e.g., VOIP call data) between the server and client telephones. For example, a mobile application provided by Defendant permits communication between the server and client telephones via Internet or LTE services.

18. For each user account, the Product maintains contact information for the

associated user. For example, the Product maintains a user profile for a given user account and the user profile includes the user's personal information such as name and contact information. Various of these elements are illustrated above and below in the public information (screenshots):



<https://play.google.com/store/apps/details?id=com.masergy.app.android&hl=en>

19. The Product maintains a contact list of telephone numbers that a given user has selected. The contact list can be accessed and dialed by the user's client telephone.

20. The Product can associate a user account with a new telephone so that the new telephone can dial the contact telephone numbers for that particular user account. For example, when a user has a new telephone, the user account is associated with the new telephone by way of the user logging in to the Product's application.

21. Defendant's actions complained of herein will continue unless Defendant is enjoined by this court.

22. Defendant's actions complained of herein are causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

23. Plaintiff is in compliance with 35 U.S.C. § 287.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

- (a) Enter judgment for Plaintiff on this Complaint on all causes of action asserted herein;
- (b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receive notice of the order from further infringement of United States Patent No. 7,367,044 (or, in the alternative, awarding Plaintiff a running royalty from the time of judgment going forward);
- (c) Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;
- (d) Award Plaintiff pre-judgment and post-judgment interest and costs; and
- (e) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: October 19, 2017

Respectfully submitted,

/s/ Jay Johnson

JAY JOHNSON

State Bar No. 24067322

D. BRADLEY KIZZIA

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ATTORNEYS FOR PLAINTIFF

EXHIBIT A